

Sr. No. 260

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. M-29369 of 2015
Date of Decision: 24.09.2015

Varun

--Petitioner

Vs

State of Haryana

--Respondent

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Bhupander Ghanghas, Advocate,
for the petitioner.

Mr. M.K.Sangwan, DAG, Haryana.

RAMESHWAR SINGH MALIK J. (ORAL)

Petitioner seeks bail pending trial in FIR No. 293 dated 04.05.2015 under Section 346 IPC, later on added Sections 363,366-A and 120-B of the Indian Penal Code registered at Police Station City Bhiwani, District Bhiwani.

Learned counsel for the petitioner submits that Salabh, younger brother of the petitioner performed love marriage with Vinita. Since the parents of Vinita were not happy with the marriage, the FIR was lodged implicating the petitioner as well. Except the fact that petitioner is a brother of above said Salabh, he had no role to play in the incident. He prays for allowing the present petition.

On the other hand, learned State counsel on instructions from HC Devender Kumar, Police Station Bhiwani, District Bhiwani submits that Vinita was minor at the time of alleged marriage with

Salabh, brother of the petitioner. Petitioner has also been found involved in the commission of offence. He facilitated his brother Salabh in committing the offence. Thus, the petitioner has not been falsely implicated as alleged by the petitioner. Learned counsel for the State also submits that after filing of the present petition, offence under Section 376 IPC has also been added but only qua above said Salabh, brother of the petitioner. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, petitioner has been found entitled for bail pending trial. It is so said because the love marriage took place between his brother and Vinita. Vinita has stated in her statement under Section 164 Cr.P.C. before the learned Judicial Magistrate Ist Class, Bhiwani that she has performed the marriage with Salabh. In spite of the fact that Vinita was minor, the marriage cannot be said to be void *ab initio*. That fact apart, Vinita had attained the age of discretion and in such a situation, it shall be a debatable issue before the learned trial Court as to whether the petitioner, as a matter of fact, has played any role in the commission of offence or not. Further, since the trial is yet to commence, conclusion thereof will take some time.

In view of the above and without commenting anything further on the merits of the case at this stage, present petition is allowed and the petitioner is directed to be released on bail pending

trial, on his furnishing adequate bail bonds/surety bonds to the satisfaction of learned trial Court.

It is also made clear that since learned counsel for the State has brought to the notice of this Court that during pendency of the present petition, offences under Section 376 IPC as well as POCSO Act have been added, petitioner shall be deemed to have been granted bail in above said FIR No. 293 dated 04.05.2015 under Sections 346, 363 366-A, 376 and 120-B IPC as well as offences under POCSO Act.

Disposed of, accordingly.

(RAMESHWAR SINGH MALIK)
JUDGE

24.09.2015
vandana